



Transportation Committee

**Tuesday, April 4, 2006
2:00 PM - 3:00 PM
404 HOB**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Transportation Committee

Start Date and Time: Tuesday, April 04, 2006 02:00 pm

End Date and Time: Tuesday, April 04, 2006 03:00 pm

Location: 404 HOB

Duration: 1.00 hrs

Consideration of the following bill(s):

HB 553 Specialty License Plates by Hukill
HB 1011 Notice of Advance Directive by Homan
HB 1115 South Florida Regional Transportation Authority by Greenstein
HB 1117 Public Records by Greenstein
HB 7145 CS Seaport Security by Domestic Security Committee

NOTICE FINALIZED on 03/31/2006 16:07 by Rousseau.Tiffany

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 553

Specialty License Plates

SPONSOR(S): Hukill

TIED BILLS:

IDEN./SIM. BILLS: SB 1252

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Thompson <i>J.T.</i>	Miller <i>P.M.</i>
2) Military & Veteran Affairs Committee			
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

HB 553 creates the "Support Our Troops" license plate, and establishes an annual use fee of \$25 to be paid by purchasers in addition to license taxes and fees. The annual use fee will be distributed to Support our troops, Inc., which will use the proceeds according to its articles of incorporation.

The organization seeking authority for the specialty license plate has submitted the \$60,000 application fee and the marketing plan but they have not submitted the survey.

The fiscal impact of the bill of approximately \$60,000 on the Department of Highway Safety and Motor Vehicles (DHSMV) for implementation of the new specialty license plates will be offset by the application fees paid to DHSMV by the sponsoring organizations.

The bill has a contingent, effective date of July 1, 2006 if the organization has met the requirements.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government - The bill appears to increase government in that it requires DHSMV to develop and provide for the manufacture of a new license plate, and therefore requires county tax collectors offices to maintain an appropriate inventory and administer the new plate.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Currently, specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization. Under s. 320.08053, F.S., an organization may seek Legislative authorization for a new specialty license plate by meeting a number of requirements.

An organization is first required to submit to the Department of Highway Safety and Motor Vehicles (DHSMV):

- A request for the plate describing it in general terms;
- The results of a professional, independent, and scientific sample survey of Florida residents indicating that 15,000 vehicle owners intend to purchase the plate at the increased cost;
- An application fee of up to \$60,000 defraying DHSMV's cost for reviewing the application, developing the new plate, and providing for the manufacture and distribution of the first run of plates; and
- A marketing strategy for the plate and a financial analysis of anticipated revenues and planned expenditures.

These requirements must be satisfied at least 90 days prior to the convening of the regular session of the Legislature. Once the requirements are met, DHSMV notifies the committees of the House of Representatives and Senate with jurisdiction over the issue, and the organization is free to find sponsors and pursue Legislative action.

If a proposed specialty plate fails to be enacted by the Legislature, DHSMV returns the application fee and other required documents to the organization. If it passes and becomes law, DHSMV notifies the organization, modifies its computer programming to accommodate the new plate, and requests the laminate manufacturer, 3M Company, to produce a prototype roll-coat. PRIDE, the contracted manufacturer of license plates, embosses and roll-coats sample plates that must be submitted to FHP, the Governor, and the Cabinet for approval. Once approval is given, PRIDE begins full production of the plates and distributes them to the Tax Collectors' Offices for sale to the public.

Discontinuance of an approved specialty license plate occurs only when the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is to be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates. According to DHSMV there are currently twenty-two plates that are not meeting the minimum sales requirement and could be discontinued in 2006 if their sales do not increase. If none of these plates meet the minimum sales requirement by next summer, the number of plates offered for sale could be reduced to seventy-eight.

Specialty license plates are distinguished from other types of specialized license plates by the fact that anyone may obtain one by simply paying an additional annual use fee, and by the fact that annual use fees are dedicated to supporting a particular cause or organization. The Legislature has also created a number of specialized license plates that are not specialty plates. These plates differ because the purchaser must be eligible by his or her status to obtain the plate, and because ownership of these plates does not require payment of an annual use fee that is distributed for charitable purposes. These types of "status plates" are referred to in the statutes as special plates, and include: the Governor and Legislator plates; the amateur radio operators plate; the disabled veterans plate; the street rods plate; the National Guard, Pearl Harbor Survivor, Combat-wounded veteran and U.S. Reserve plates; and the Medal of Honor plate.

The statutes provide for all specialty plates within ss. 320.08056 and 320.08058, F.S., and provide for a uniform procedure for approval and authorization in s. 320.08053, F.S. By comparison, other specialized plates (the status or special plates) are created on an ad hoc basis by the Legislature, and the statutes provide for them independently of one another in separate sections. It is unnecessary for a proponent of a special plate to obtain prior approval before seeking Legislative action.

The Legislature has enacted 106 specialty license plates to date, though only 100 are currently available for purchase. Annual use fees for sales of specialty license plates for 2003-2004 totaled \$26,168,581 and for fiscal year 2004-2005 the total was \$29,049,472.90. Since the program's inception in 1986, the DHSMV has collected annual use fees totaling more than \$280 million.

Effect of Proposed Changes

HB 553 directs DHSMV to develop the "Support Our Troops" license plate. A qualified motor vehicle owner may obtain the "Support Our Troops" license plate upon payment of a \$25 annual use fee in addition to the appropriate license taxes and service fees. DHSMV is required to develop a Support Our Troops license plate which bears the colors and design approved by DHSMV and must contain an emblem or logo of a soldier and a child. The word "Florida" must appear at the top of the plate, and the words "Support Our Troops" must appear at the bottom of the plate.

The proceeds of the annual use fee are to be distributed to Support Our Troops, Inc., and are to be used according to its articles of incorporation. Application for the "Support Our Troops" license plate by a motor vehicle owner or lessee would constitute prior written consent and instruction by DHSMV to provide names and addresses of the applicants to the sponsoring organization. The bill does not specify whether the applicants will be notified that by applying for the tag, their information will be provided to the sponsoring organization, Support Our Troops, Inc.

According to the Department of Highway Safety and Motor Vehicles, Support Our Troops, Inc. has submitted the \$60,000 application fee and the marketing plan but they have not submitted the survey.

C. SECTION DIRECTORY:

Section 1. Amending ss. 320.08056 and 320.08058, F.S., creating the "Support Our Troops" license plate; providing for plate design; providing for annual use; and providing for distribution of annual use fees;

Section 2. Provides a contingent, effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section below.

2. Expenditures:

See FISCAL COMMENTS section below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who elect to purchase these specialty license plates, will be required to pay an annual use fee of \$25 in addition to applicable license taxes and administrative charges. The fee from the "Support Our Troops" license plate will be distributed to Support Our Troops, Inc. which is to use the proceeds according to its articles of incorporation.

Since it is impossible to determine how many persons will purchase the plates, it is impossible to determine the aggregate impact on the private sector.

D. FISCAL COMMENTS:

Implementation of HB 553 will cost DHSMV approximately \$60,000 in contract programming, development labor, and product purchasing costs for creation of the "Support Our Troops" license plates. This impact is offset by the statutory application fee of \$60,000, which has been submitted to DHSMV by the organization seeking creation of the specialty license plates.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Application for the Support Our Troops specialty license plate by a motor vehicle owner or lessee would constitute prior written consent and instruction by DHSMV to provide names and addresses of the applicants to the sponsoring organization. The bill does not specify whether the applicants will be

notified that by applying for the tag, their information will be provided to the sponsoring organization, Support Our Troops, Inc.

The bill's sponsor plans to file a "strike-all" amendment which deletes the language regarding application for the license plate being written consent to allow the applicant's name and address to be provided to the sponsoring organization. The amendment also specifies that the license plate proceeds will be used for the benefit of Florida troops and veterans, and their families. Finally, the amendment provides that a share of the license plate proceeds will be distributed to the Florida Department of Veteran's Affairs for deposit in the State Homes for Veterans Trust Fund.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 553

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1 A bill to be entitled

2 An act relating to specialty license plates; amending ss.
3 320.08056 and 320.08058, F.S.; creating the Support Our
4 Troops license plate; establishing the annual use fee for
5 the plate; providing for the distribution of annual use
6 fees received from the sale of the plates; providing for
7 the Department of Highway Safety and Motor Vehicles to
8 provide the name and address of the buyer of the plate to
9 the sponsoring organization; providing a conditional
10 effective date.

11
12 WHEREAS, to create a concrete statement of thanks to our
13 troops for their service, civilians have stepped forward and
14 founded Support Our Troops, Inc., a national nonprofit
15 organization based in Florida that is dedicated to permanently
16 supporting the troops and their families, and

17 WHEREAS, through a comprehensive program that enables
18 individuals to offer support through multiple charitable
19 methodologies, Support Our Troops, Inc., provides the means
20 through which individuals may take direct personal financial
21 responsibility for their troops and engage in direct financial
22 support for the troops and their families, and

23 WHEREAS, Support Our Troops, Inc., also provides the means
24 through which people may publicly display support for their
25 troops, and

26 WHEREAS, the Support Our Troops license plate will serve
27 these very important functions and will, by example, encourage
28 others to do the same, NOW, THEREFORE,

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (eee) is added to subsection (4) of section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.--

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(eee) Support Our Troops license plate, \$25.

Section 2. Subsection (57) is added to section 320.08058, Florida Statutes, to read:

320.08058 Specialty license plates.--

(57) SUPPORT OUR TROOPS LICENSE PLATES.--

(a) The department shall develop a Support Our Troops license plate as provided in this section. Support Our Troops license plates must bear the colors and design approved by the department and must contain an emblem or logo of a soldier and a child. The word "Florida" must appear at the top of the plate, and the words "Support Our Troops" must appear at the bottom of the plate.

(b) The proceeds of the annual use fee shall be distributed to Support Our Troops, Inc., which shall use the proceeds according to its articles of incorporation.

(c) Application for the Support Our Troops specialty license plate by a motor vehicle owner or lessee shall constitute prior written consent and instruction by the applicant to the Department of Highway Safety and Motor Vehicles

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56 to provide his or her name and address to the sponsoring
57 organization.

58 Section 3. This act shall take effect July 1, 2006, if
59 Support Our Troops, Inc., has met the requirements of s.
60 320.08053(1)(b), Florida Statutes, for approval of the Support
61 Our Troops specialty license plate prior to that date, except
62 that this section shall take effect upon this act becoming a
63 law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 553

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Transportation
Representative(s) Hukill offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (eee) is added to subsection (4) of
section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.--

(4) The following license plate annual use fees shall be
collected for the appropriate specialty license plates:

(eee) Support Our Troops license plate, \$25.

Section 2. Subsection (57) is added to section 320.08058,
Florida Statutes, to read:

320.08058 Specialty license plates.--

(57) SUPPORT OUR TROOPS LICENSE PLATES.--

(a) The department shall develop a Support Our Troops
license plate as provided in this section. Support Our Troops
license plates must bear the colors and design approved by the
department and must contain an emblem or logo of a soldier and a
child. The word "Florida" must appear at the top of the plate,

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

and the words "Support Our Troops" must appear at the bottom of the plate.

(b) The proceeds of the annual use fee which are distributed to Support Our Troops, Inc. shall, after costs set forth in (c), be used solely for the benefit of Florida troops, including without limitation, the Florida National Guard and Reserves, Florida military service members, Florida veterans, and their families.

(c) Support Our Troops, Inc. shall receive the first \$117,000.00 of the revenue generated by the Support Our Troops plate to offset the startup costs of developing and establishing the plate. Thereafter, the department shall distribute the Support Our Troops license plate annual use fee in the following manner: Support Our Troops, Inc. shall receive 25 percent to offset marketing, administration, and promotion. The remaining proceeds shall be distributed to Support Our Troops, Inc., less 35 percent, which shall be distributed to the Florida Department of Veterans Affairs State Homes for Veterans' Trust Fund.

(d) Support Our Troops, Inc. shall be subject to annual audit pursuant to s. 320.08062 and a financial report pursuant to s. 496.407.

Section 3. This act shall take effect July 1, 2006, if Support Our Troops, Inc., has met the requirements of s. 320.08053(1)(b), Florida Statutes, for approval of the Support Our Troops specialty license plate prior to that date, except that this section shall take effect upon this act becoming a law.

===== T I T L E A M E N D M E N T =====

Remove line(s) 2-10 and insert:

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

51 An act relating to specialty license plates; amending ss.
52 320.08056 and 320.08058, F.S.; creating the Support Our Troops
53 license plate; establishing the annual use fee for the plate;
54 providing for the distribution of annual use fees received from
55 the sale of the plates, providing a conditional effective date.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1011

Notice of Advance Directive

SPONSOR(S): Homan

TIED BILLS:

IDEN./SIM. BILLS: SB 2324

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>	<u></u>	Thompson <u>J.T.</u>	Miller <u>P.M.</u>
2) <u>Transportation & Economic Development Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>State Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Currently, there is no statutory provision to allow the Department of Highway Safety and Motor Vehicles (DHSMV) to issue driver licenses or identification cards that indicate the existence of an advance directive.

HB 1011 defines the term "advance directive" as a witnessed written document or oral statement in which instructions are given by a principal or in which the principal's desires are expressed concerning any aspect of the principal's health care, and includes, but is not limited to, the designation of a health care surrogate, a living will, or an anatomical gift. The bill provides that applicants for driver licenses and identification cards be allowed the option to request the notation of the existence of an advance directive on their identification cards and driver licenses issued by the DHSMV.

The bill's inclusion of the option for the applicant to request that the existence of an advance directive be noted on the driver's license or identification card will have a workload impact on the DHSMV field issuance staff. According to DHSMV, the bill will require additional staff, equipment, office space, and computer programming at a cost of \$4.3 million for the first year and \$3 million on a recurring basis. See the Fiscal Analysis and Economic Impact Statement section of this analysis for details on the fiscal impact and the assumptions used to determine that impact.

This act shall take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility and Safeguard Individual Liberty – HB 1011 increases personal responsibility by allowing the option to request the notation of the existence of an advance directive on identification cards and driver licenses concerning anatomical donations.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Chapter 322, F.S., provides for laws related to drivers' licenses and identification cards. The DHSMV's Division of Driver Licenses, Driver License Program administers driver license-related activities, which are intended to increase consumer protection and promote public safety by licensing only those drivers who demonstrate the necessary knowledge, skills, and abilities to operate motor vehicles on Florida's roads; controlling and improving problem drivers by suspending and revoking the licenses of drivers who abuse their driving privileges; monitoring drivers to ensure they carry the required insurance to be financially responsible for their actions; and maintaining driver history records. The DHSMV estimates that in fiscal year 2005-2006 there are 15.9 million licensed Florida drivers and that 7.8 million applicants will be processed in field offices.

The fee for an original operator's driver's license is \$20 and the fee for renewal or extension is \$15. Driver license fees are set out in s. 322.21, F.S. The renewal fee is applicable for both a 4 and 6-year license. The fee for an original identification card is \$3 and the fee for a renewal or replacement is \$10. Identification cards are generally valid for 4 years, except that for individuals 60 years of age or older the identification card does not expire until cancelled. Identification card fees are set out in s. 322.051, F.S.

An advance directive is a witnessed written document or oral statement in which instructions are given by a principal¹ or in which the principal's desires are expressed concerning any aspect of the principal's health care, and includes, the designation of a health care surrogate, a living will, or an anatomical gift made pursuant to the laws of Florida.² Such directives may be made in advance through oral statements made to others or through a living will or other written directive that expresses the person's wishes.³

An anatomical donation is a document that indicates a person's wish to donate, at death, all or part of their body. This can be an organ and tissue donation to persons in need of transplant or graft material, or donation of the body for training of health care workers. A person can indicate their choice to be an organ donor by designating it on their driver's license or state identification card, signing a uniform donor form, or expressing their wish in a living will. Section 765.521, F.S., sets out a process for anatomical donations as part of the driver license or identification card process. A notation on an individual's driver license or identification card that the individual intends to donate organs or tissues is deemed sufficient to satisfy all requirements for consent to organ or tissue donation.

EFFECTS OF THE BILL

HB 1011 amends s. 322.01, F.S., to provide that the term "Advance Directive" has the same meaning as the term is defined in s. 765.101, F.S. That section defines the term as a witnessed written

¹ The *principal* is the person executing or creating the directive.

² See s. 765.101, F.S.

³ See Part III, Ch. 765, F.S.

document or oral statement in which instructions are given by a principal or in which the principal's desires are expressed concerning any aspect of the principal's health care, and includes, but is not limited to, the designation of a health care surrogate, a living will, or an anatomical gift.

The bill amends s. 322.051, F.S., to provide that all applications for identification cards must include the option for the applicant to request that the existence of an advance directive be noted on the identification card. The bill also allows the DHSMV to issue, upon written request and a \$10 fee by the identification card holder, a sticker to be affixed to the back of an identification card indicating the existence of an "Advance Directive" instead of replacement of the identification card.

The bill amends s. 322.08, F.S., to provide that all applications for a driver's license must include the option for the applicant to request that the existence of an advance directive be noted on the driver's license.

The bill revises s. 322.141, F.S., to provide that all original or reissued licenses or identification cards must be prominently marked with the notation "Advance Directive" at the applicant's request.

The bill also amends s. 322.17, F.S., requiring the DHSMV to issue a replacement license to add a notation of an advance directive upon payment of a \$10 fee. The bill allows the DHSMV to issue, upon written request and a \$10 fee by the driver's license holder, a sticker to be affixed to the back of the driver's license indicating the existence of an advance directive instead of replacement of the driver's license.

The bill amends s. 322.18, F.S., to provide that applicants for an original or renewal driver's license must have the option to request that the existence of an advance directive be noted on their license. The bill requires an original or renewal license to be prominently marked with the notation "Advance Directive" at the applicant's request. For a license extension, the DHSMV is required to issue a sticker to be affixed to the back of the applicant's driver's license indicating the existence of an advance directive.

C. SECTION DIRECTORY:

Section 1. Amends s. 322.01, F.S., to define "Advance Directive" for purposes of the administration of driver licenses and identification cards.

Section 2. Amends s. 322.051, F.S., to require the application for an identification card to include the option for the applicant to request that the existence of an advance directive be noted on the identification card, to provide for such notation to be marked on original and duplicate cards issued by the DHSMV, to provide for issuance of a sticker to be placed in the card by the cardholder to indicate the existence of an advance directive, to provide for a \$10 fee for the issuance of the sticker.

Section 3. Amends s. 322.08, F.S., to require the application for a driver license to include the option for the applicant to request that the existence of an advance directive be noted on the driver license.

Section 4. Amends s. 322.141, F.S., to require driver licenses or identification cards issued or reissued by the DHSMV to be prominently marked with "Advance Directive" when the notation is requested.

Section 5. Amends s. 322.17, F.S., to provide for reissuance of a driver license to add notation of an advance directive, to provide for issuance of a sticker in lieu of a replacement license to note the existence of an advance directive, to provide for a \$10 fee for the issuance of the sticker.

Section 6. Amends s. 322.18, F.S., to conform a cross reference to the definition of commercial motor vehicles, to require the application form for an original or renewal issuance of a driver license or a license extension to include the option to request notation of the existence of an advance directive, to provide for licenses issued or reissued by the DHSMV to be marked with "Advance Directive", to provide for the DHSMV to issue a sticker with a license extension.

Section 7. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

See FISCAL COMMENTS section, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a significant direct economic impact on the private sector.

D. FISCAL COMMENTS:

The bill's inclusion of the option for the applicant to request that the existence of an advance directive be noted on the driver's license or identification card will have a workload impact on the DHSMV field issuance staff. DHSMV estimated that it will increase the time it takes to process applicants by an additional 2 minutes per customer to explain and clarify what advance directives are. If this assumption is valid, DHSMV estimated that an additional 64 FTEs (60 examiners and 4 office managers) will be required to maintain the current level of field issuance service. Four additional leased facilities, estimated at \$600,000, located in large metropolitan areas would also be required to accommodate the majority of the additional FTEs. The cost of the computer and licensing equipment, phone systems, cabling, and other initial set-up costs is estimated by DHSMV at \$921,054. The estimated cost to staff the additional field positions would be \$4.2 million for the first year and \$3 million for the second year. DHSMV also estimates that this bill would require contracted programming modifications to the Drivers License Software at a cost of \$138,750.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Agency Comments

DHSMV has recommended that the language be changed to allow the issuance of a duplicate or replacement identification card or driver's license rather than a sticker. Currently, the back of identification cards and drivers licenses contains information that should not be covered up. The sticker would be acceptable if the last issued driver's license was non-digital. The duplicate or replacement card would indicate the existence of an advance directive on the front of the identification card in all other cases.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 1011

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A bill to be entitled

An act relating to notice of advance directive; amending s. 322.01, F.S.; defining "advance directive" for purposes of the administration of driver licenses and identification cards; amending s. 322.051, F.S.; requiring the application for an identification card to include the option for the applicant to request that the existence of an advance directive be noted on the identification card; providing for such notation to be marked on original and duplicate cards issued by the Department of Highway Safety and Motor Vehicles; providing for issuance of a sticker to be placed on the card by the cardholder to indicate the existence of an advance directive; providing for a fee; amending s. 322.08, F.S.; requiring the application for a driver license to include the option for the applicant to request that the existence of an advance directive be noted on the driver license; amending s. 322.141, F.S.; requiring driver licenses or identification cards issued or reissued by the department to be prominently marked with "Advance Directive" when such notation is requested; amending s. 322.17, F.S.; providing for reissuance of driver license to add notation of an advance directive; providing for issuance of a sticker in lieu of a replacement license to note the existence of an advance directive; providing for a fee; amending s. 322.18, F.S.; conforming a cross-reference; requiring the application form for an original or renewal issuance of a driver license or a license extension to include the option to

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request notation of the existence of an advance directive;
 providing for licenses issued or reissued by the
 department to be marked with "Advance Directive";
 providing for the department to issue a sticker with a
 license extension; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2) through (42) of section 322.01,
 Florida Statutes, are renumbered as subsections (3) through
 (43), respectively, and a new subsection (2) is added to that
 section to read:

322.01 Definitions.--As used in this chapter:

(2) "Advance directive" has the same meaning as that term
 is defined in s. 765.101.

Section 2. Paragraph (d) is added to subsection (1) of
 section 322.051, Florida Statutes, and subsections (3) and (8)
 of that section are amended, to read:

322.051 Identification cards.--

(1) Any person who is 12 years of age or older, or any
 person who has a disability, regardless of age, who applies for
 a disabled parking permit under s. 320.0848, may be issued an
 identification card by the department upon completion of an
 application and payment of an application fee.

(d) Each such application shall include the option for the
 applicant to request that the existence of an advance directive
 be noted on the identification card.

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(3) (a) If an identification card issued under this section is lost, destroyed, or mutilated or a new name is acquired, the person to whom it was issued may obtain a duplicate upon furnishing satisfactory proof of such fact to the department and upon payment of a fee of \$10 for such duplicate, \$2.50 of which shall be deposited into the General Revenue Fund and \$7.50 into the Highway Safety Operating Trust Fund. Upon request by the cardholder, the department shall cause the duplicate card to be prominently marked with the notation "Advance Directive." The fee shall include payment for the color photograph or digital image of the applicant. Any person who loses an identification card and who, after obtaining a duplicate, finds the original card shall immediately surrender the original card to the department. The same documentary evidence shall be furnished for a duplicate as for an original identification card.

(b) Upon written request by the identification card holder and the payment of a \$10 fee, in lieu of replacement, the department shall issue a sticker which shall be affixed to the back of the identification card by the cardholder indicating the existence of an advance directive.

(8) The department shall, upon receipt of the required fee, issue to each qualified applicant for an identification card a color photographic or digital image identification card bearing a fullface photograph or digital image of the identification card holder ~~cardholder~~. Notwithstanding chapter 761 or s. 761.05, the requirement for a fullface photograph or digital image of the identification card holder ~~cardholder~~ may not be waived. If the notation of an advance directive is

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84 requested, the department shall cause the identification card to
 85 be prominently marked with the notation "Advance Directive." A
 86 space shall be provided upon which the identification card
 87 holder ~~cardholder~~ shall affix his or her usual signature, as
 88 required in s. 322.14, in the presence of an authorized agent of
 89 the department so as to ensure that such signature becomes a
 90 part of the identification card.

91 Section 3. Paragraph (f) is added to subsection (2) of
 92 section 322.08, Florida Statutes, to read:

93 322.08 Application for license.--

94 (2) Each such application shall include the following
 95 information regarding the applicant:

96 (f) The option for the applicant to request that the
 97 existence of an advance directive be noted on the license.

98 Section 4. Subsection (3) is added to section 322.141,
 99 Florida Statutes, to read:

100 322.141 Color or markings of certain licenses or
 101 identification cards.--

102 (3) All licenses or identification cards originally issued
 103 or reissued by the department to persons who have requested that
 104 the existence of an advance directive be noted on the license or
 105 identification card shall be prominently marked with the
 106 notation "Advance Directive."

107 Section 5. Subsection (2) of section 322.17, Florida
 108 Statutes, is amended to read:

109 322.17 Duplicate and replacement certificates.--

110 (2) (a) Upon the surrender of the original license and the
 111 payment of a \$10 replacement fee, the department shall issue a

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112 replacement license to make a change in name, address, or
113 restrictions or to add notation of an advance directive.

114 (b) Upon written request by the licensee and notification
115 of a change in address or upon written request for notation of
116 an advance directive, and upon the payment of a \$10 fee, the
117 department shall, in lieu of a replacement, issue a an-address
118 sticker which shall be affixed to the back of the license by the
119 licensee indicating the correct address or the existence of an
120 advance directive, as appropriate.

121 (c) Nine dollars of the fee levied in this subsection
122 shall go to the Highway Safety Operating Trust Fund of the
123 department.

124 Section 6. Paragraph (e) of subsection (2) of section
125 322.18, Florida Statutes, is amended, and subsection (10) is
126 added to that section, to read:

127 322.18 Original applications, licenses, and renewals;
128 expiration of licenses; delinquent licenses.--

129 (2) Each applicant who is entitled to the issuance of a
130 driver's license, as provided in this section, shall be issued a
131 driver's license, as follows:

132 (e) Notwithstanding any other provision of this chapter,
133 an applicant applying for an original or renewal issuance of a
134 commercial driver's license as defined in s. 322.01(8)(7), with
135 a hazardous-materials endorsement, pursuant to s. 322.57(1)(e),
136 shall be issued a driver's license that expires at midnight on
137 the licensee's birthday that next occurs 4 years after the month
138 of expiration of the license being issued or renewed.

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(10) The application form for an original or renewal issuance or a license extension shall include the option for the applicant to request that the existence of an advance directive be noted on the license.

(a) For an original or renewal issuance, if the notation of an advance directive is requested, the department shall cause the license to be prominently marked with the notation "Advance Directive."

(b) For a license extension, if the notation of an advance directive is requested, the department shall issue a sticker which shall be affixed to the back of the license by the licensee indicating the existence of an advance directive.

Section 7. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1115
SPONSOR(S): Greenstein
TIED BILLS: HB 1117

South Florida Regional Transportation Authority

IDEN./SIM. BILLS: SB 2078

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>		Pugh (BJP)	Miller P.M.
2) <u>Local Government Council</u>			
3) <u>Transportation & Economic Development Appropriations Committee</u>			
4) <u>State Infrastructure Council</u>			
5) _____			

SUMMARY ANALYSIS

The South Florida Regional Transportation Authority was created in 2003 to broaden the scope of the old Tri-County Commuter Rail Authority (Tri-Rail) and to develop regional public-transit planning for Miami-Dade, Broward and Palm Beach counties.

HB 1115 makes a number of changes to the South Florida Regional Transportation Authority (the Authority) act in Part I of chapter 343, F.S. The bill:

- Specifies that the state will not limit or alter the rights vested in the Authority to sell revenue bonds until all the bonds issued by the Authority are paid off and discharged.
- Clarifies the requirement that each of the three counties dedicate and transfer \$2.67 million annually to the Authority for capital funding, as well as \$4.2 million annually from each county for operating costs, by specifying that the funds must be dedicated prior to October 31 of each fiscal year.
- Deletes the provision allowing three counties to collect a \$2 fee on initial and renewal vehicle registrations within their boundaries upon approval by referendum.
- Specifies that the Legislature "shall direct" \$50 million in recurring funds to the authority, to be used to fund capital, operating and maintenance expenses.
- Eliminates the operating and capital funding contributions from the three counties when the proposed \$50 million becomes available. But those local contributions would resume if the new funding ceases.
- Extends from December 31, 2009, to December 31, 2015, the date on which the local capital funding for the Authority ceases if no federal matching funds have been received.
- Deletes references to "commuter rail" to reflect the authority's broader transit mission.

HB 1115 raises no apparent constitutional or other legal issues. As drafted, it has a \$50 million recurring fiscal impact to the state, but the sponsor and bill supporters say that is not their intent. The bill also gives the authority an additional \$7.9 million each year, in total, from Broward, Miami-Dade, and Palm Beach counties to pay for operating expenses.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: HB 1115 proposes eliminating the authorized \$2 fee on initial and renewal registrations of vehicles taxed under s. 320.08, F.S., F.S., in Broward, Miami-Dade and Palm Beach counties, which has not been implemented.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

In an attempt to ease the disruptions created for commuters while it was six-laning I-95 in the mid-1980s, FDOT purchased an 81-mile rail corridor from CSXT for \$264 million and began building a commuter train system. Under terms of the sale, CSXT continued to operate its freight trains in the corridor; maintain the tracks, buildings, and signaling; and dispatches all trains using the tracks--its own, Tri-Rail and Amtrak trains. In 1989, the Legislature passed the Tri-County Commuter Rail Authority Act as Part 1 of Chapter 343, F.S., creating a commuter railroad to serve Miami-Dade, Broward and Palm Beach counties.

In 2003, the Legislature passed SB 686, which reconfigured the Tri-Rail Commuter Rail Authority as the South Florida Regional Transportation Authority (the Authority). Supporters of the legislation said that a transportation authority, rather than a commuter rail system, would have a better opportunity to draw down federal matching dollars for public transit projects.

The new transportation authority is empowered to construct, finance, and manage a variety of mass transit options, not just commuter rail, as an integrated system. It has numerous powers and responsibilities, including the power to acquire, sell, and lease property; to use eminent domain; to enter into purchasing agreements and other contracts; to enforce collection of system rates, fees, and other charges; and to approve revenue bonds issued on its behalf by the State Division of Bond Finance.

The Authority has a nine-member board comprised of :

- A county commissioner from each of the three counties, selected by his or her peers;
- A citizen selected by each county commission who must live within the county he or she is representing, be a registered voter, and, insofar as practicable, represent civic and business interests of the community.
- One of the Florida Department of Transportation (FDOT) district secretaries who is responsible for one or more of the counties within the Authority's boundaries. That could be either the District 4 secretary (whose region includes Broward and Palm Beach counties) or the District 6 secretary (whose region includes Miami-Dade). At this time, the FDOT District 6 secretary serves on the Authority.
- Two citizens appointed by the governor who live in different counties within the Authority's jurisdiction but not the same county as the FDOT district secretary. They also must be registered voters.

The 2003 law also required each of the three counties served by the Authority to dedicate funding of \$2.67 million annually, no later than August 1, 2003. The potential sources of this dedicated funding include:

- Local-option fuel taxes;
- Each county's share of the local ninth-cent fuel tax;
- Proceeds of a \$2 annual fee for registration or renewal of registration of each vehicle licensed in this state and registered in one of the three counties, if approved by a county referendum; or
- Other non-federal funds.

In addition, each county must provide annual funding for operations of at least \$1.565 million. These local funding requirements are repealed if the Authority does not obtain federal matching funds by December 31, 2009. A fiscal analysis of the 2003 legislation indicated the \$2 fee new and renewal registration fee would generate an estimated \$8 annually for the Authority. The fees have not been imposed.

Meanwhile, the Authority is continuing to improve the existing commuter rail system with its 18 stations. Since 1995, the major project has been the \$451-million "Double Track Corridor Improvement Program," which makes improvements to the existing 72-mile route and builds a second mainline track parallel to the existing track. About \$334 million of the project cost has been funded by the Federal Highway Administration through direct grants; FDOT has paid the rest. All but 2 miles of the double-tracking has been completed, and the Authority recently added additional trains and introduced new schedules that have trains leaving the stations every 20 minutes during morning and evening rush hours.

Last year, the commuter train system was averaging about 8,000 riders a day, but the near-completion of the double-tracking, plus better on-time reliability and more scheduled runs, has boosted daily ridership averages in 2006 to nearly 10,000, according to the bill's supporters.

The Authority continues to seek a significant dedicated funding source to complete the commuter train system and to implement its long-range transit plans. Dedicated funding is necessary for the Authority to be able to issue revenue bonds in order to obtain federal transit grants that typically require a 50-50 match. Under the state's participation in the federal "New Starts" transit program, a local match of 25 percent is required, while the state provides the 25 percent and the federal government 50 percent.

Effect of HB 1115

The bill makes a number of significant changes to Part I of chapter 343, F.S. Briefly, HB 1115:

- Clarifies that the three counties must dedicate and transfer not less than \$2.67million annually to the Authority for capital expenditures prior to October 31 of each fiscal year.
- Raises from \$1.565 million annually to \$4.2 million annually the amount of money each of the three counties must contribute to the Authority to pay its operating expenses.
- Deletes the \$2 fee on initial and renewal vehicle registrations within the three-county area. The fee, which must be approved by voter referendum, has not been approved in any of the counties.
- Provides that the Legislature "shall direct \$50 million in recurring funds" to the Authority to fund capital, operating, and maintenance expenses. The bill's supporters say this is not intended to be an appropriation from state general or other revenues, but a prospective new source of local-option funding – a local-option rental-car surcharge –that is the subject of another bill.
- Eliminates the operating and capital funding contributions from the three counties when the proposed \$50 million becomes available. But those local contributions would resume if the new funding ceases.
- Specifies that the state will not limit or alter the rights vested in the Authority to sell revenue bonds until all the bonds issued by the Authority are paid off and discharged
- Extends by six years, to December 31, 2015, the date on which the local capital funding for the Authority ceases if no federal matching funds have been received. Section 343.58(1) , F.S., which specifies the local capital funding sources, would be repealed under that circumstance.
- Deletes obsolete phrases and makes clarifying changes. Key among them is deleting references to "commuter rail," so that the Authority's broader area of responsibility is to plan, develop, operate, and fund a transit system. This reflects the Authority's plans to operate an integrated system of public transportation options.

HB 1115 takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 343.54, F.S., to revise obsolete language.

Section 2: Amends s. 343.55, F.S., to provide that that state will not limit or alter this section related to Authority revenue bonds until all the bonds issued under this section are paid off and discharged.

Section 3: Amends s. 343.58, F.S., to modify timing of county contributions to the authority. Deletes \$2 initial and renewal registration fee for vehicles registered in the three counties. Directs the state to make recurring revenue appropriations to the Authority. Raises the counties' contributions to the Authority's operating expenses. Provides for cessation and resumption of county contributions. Extends repeal date to December 31, 2015 for county capital contributions.

Section 4: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

As drafted, the bill directs the Legislature to direct \$50 million in recurring funds to the Authority to pay for capital, operating and maintenance expenditures. The source of the funds is not specified, but would have to be funds that are subject to legislative appropriation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

HB 1115 raises from \$1.565 million annually to \$4.2 million annually the amount of money Broward, Miami-Dade and Palm Beach counties each must contribute to the Authority to pay its operating expenses.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the Authority is successful in improving and promoting public transit in the three-county region, motorists and commercial carriers may benefit due to trips being diverted from the highways, and residents who don't drive may have access to more-affordable and dependable transportation.

D. FISCAL COMMENTS:

Section 3 of HB 1115 includes a provision specifying that "The Legislature shall direct \$50 million in recurring funds" to the Authority to fund capital, operating, and maintenance expenses. Because it is broadly drafted, this funding would come from the state general revenue fund, the State Transportation Trust Fund, or another source available for legislative appropriation. The bill's supporters say the language is a placeholder, and that their intent is to tap into revenues from a proposed local-option rental-car surcharge fee that is the subject of different legislation (HB 301 CS and SB 2632). They estimate that about \$50 million could be generated each year from a \$2-a-day local-option surcharge on most rental cars in Broward, Miami-Dade and Palm Beach counties.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Authority is subject to chapter 120, F.S., Florida Administrative Code, but none of the provisions in the bill as currently drafted appear to require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

HB 1115's sponsor and supporters are working with committee staff on an amendment to clarify the fiscal issues raised in the bill's Section 3, which currently provides that the Legislature shall direct \$50 million in recurring funding to the Authority.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1 A bill to be entitled

2 An act relating to the South Florida Regional
3 Transportation Authority; amending s. 343.54, F.S.;
4 revising language relating to powers and duties of the
5 authority; deleting the term "commuter rail"; amending s.
6 343.55, F.S.; providing pledge to bondholders that the
7 state will not alter certain rights vested in the
8 authority that affect the rights of bondholders while
9 bonds are outstanding; amending s. 343.58, F.S.; revising
10 provisions for funding of the authority; requiring
11 counties served by the authority to annually transfer
12 certain funds before a certain date; removing provisions
13 for sources of that funding; removing authorization for a
14 vehicle registration tax; providing for certain funding by
15 the state to fund capital and operating and maintenance
16 expenses; revising county funding amounts to fund
17 operations; providing for cessation of specified county
18 funding contributions and providing for certain refunding
19 of the contributions under certain circumstances; revising
20 timeframe for repeal of specified funding provisions under
21 certain circumstances; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraph (b) of subsection (1) of section
26 343.54, Florida Statutes, is amended to read:

27 343.54 Powers and duties.--

28 (1)

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29 (b) It is the express intention of this part that the
30 authority be authorized to plan, develop, own, purchase, lease,
31 or otherwise acquire, demolish, construct, improve, relocate,
32 equip, repair, maintain, operate, and manage a transit system
33 and transit facilities; to establish and determine the policies
34 necessary for the best interest of the operation and promotion
35 of a transit system; and to adopt rules necessary to govern the
36 operation of a transit ~~commuter-rail~~ system and transit ~~commuter~~
37 ~~rail~~ facilities. It is the intent of the Legislature that the
38 South Florida Regional Transportation Authority shall have
39 overall authority to coordinate, develop, and operate a regional
40 transportation system within the area served.

41 Section 2. Subsection (4) is added to section 343.55,
42 Florida Statutes, to read:

43 343.55 Issuance of revenue bonds.--

44 (4) The state pledges to and agrees with any person, firm,
45 corporation, or federal or state agency subscribing to or
46 acquiring the bonds to be issued by the authority for the
47 purposes of the South Florida Regional Transportation Authority
48 Act that the state will not limit or alter the rights vested in
49 the authority under this section until all bonds at any time
50 issued and secured by revenues remitted to the authority
51 pursuant to s. 343.58, together with the interest thereon, are
52 fully paid and discharged, insofar as the same affects the
53 rights of the holders of bonds issued under this section.

54 Section 3. Section 343.58, Florida Statutes, is amended to
55 read:

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343.58 County funding for the South Florida Regional
Transportation Authority.--

(1) Each county served by the South Florida Regional
Transportation Authority must dedicate and transfer not less
than \$2.67 million to the authority annually. The recurring
annual \$2.67 million must be dedicated by the governing body of
each county prior to October 31 of each fiscal year by August 1,
~~2003. Notwithstanding ss. 206.41 and 206.87, such dedicated~~
~~funding may come from each county's share of the ninth-cent fuel~~
~~tax, the local option fuel tax, or any other source of local gas~~
~~taxes or other nonfederal funds available to the counties. In~~
~~addition, the Legislature authorizes the levy of an annual~~
~~license tax in the amount of \$2 for the registration or renewal~~
~~of registration of each vehicle taxed under s. 320.08 and~~
~~registered in the area served by the South Florida Regional~~
~~Transportation Authority. The annual license tax shall take~~
~~effect in any county served by the authority upon approval by~~
~~the residents in a county served by the authority. The annual~~
~~license tax shall be levied and the Department of Highway Safety~~
~~and Motor Vehicles shall remit the proceeds each month from the~~
~~tax to the South Florida Regional Transportation Authority.~~

(2) The Legislature shall direct \$50 million in recurring
funds to the authority. Funds may be used to fund capital and
operating and maintenance expenses of the South Florida Regional
Transportation Authority.

(3)~~(2)~~ In addition, each county shall continue to annually
fund the operations of the South Florida Regional Transportation
Authority in an amount not less than \$4.2 ~~\$1.565~~ million.

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84 Revenue raised ~~Such funds~~ pursuant to this subsection shall also
85 be considered a dedicated funding source.

86 (4) The current funding obligations under subsections (1)
87 and (3) shall cease upon commencement of the collection of
88 funding from the funding source under subsection (2). Should the
89 funding under subsection (2) be discontinued for any reason, the
90 funding obligations under subsections (1) and (3) shall resume
91 when collection from the funding source under subsection (2)
92 ceases. Payment by the counties will be on a pro rata basis the
93 first year following cessation of the funding under subsection
94 (2). The authority shall refund a pro rata share of the payments
95 for the current fiscal year made pursuant to the current funding
96 obligations under subsections (1) and (3) as soon as reasonably
97 practicable after it begins to receive funds under subsection
98 (2).

99 (5) If, by December 31, 2015 ~~2009~~, the South Florida
100 Regional Transportation Authority has not received federal
101 matching funds based upon the dedication of funds under
102 subsection (1), subsection (1) shall be repealed.

103 Section 4. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. HB 1115

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Transportation

Representative(s) Greenstein offered the following:

Amendment #1 (with title amendment)

Remove line(s) 77-80 and insert:

(2) At least \$45 million of a state-authorized, local-
option recurring funding source available to Broward, Miami-
Dade, and Palm Beach counties shall be directed to the authority
to fund its capital, operating, and maintenance expenses. The
funding source shall be dedicated to the authority only if
Broward, Miami-Dade, and Palm Beach counties each impose the
local-option funding source.

===== T I T L E A M E N D M E N T =====

Remove line(s) 15 and insert:

Broward, Miami-Dade, and Palm Beach counties of a state-
authorized, local-option funding source to pay capital,
operating, and maintenance

000000

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1117
SPONSOR(S): Greenstein
TIED BILLS: HB 1115

Public Records

IDEN./SIM. BILLS: SB 2076

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>	_____	Pugh <u>BJP</u>	Miller <u>P.M.</u>
2) <u>Governmental Operations Committee</u>	_____	_____	_____
3) <u>State Infrastructure Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The South Florida Regional Transportation Authority was created in 2003 to replace the Tri-County Commuter Rail Authority (Tri-Rail) and to develop regional public-transit planning and infrastructure for Miami-Dade, Broward and Palm Beach counties. It is a public agency supported by federal, state, and local tax dollars. Among its powers is the ability to acquire, purchase, and lease real property.

Article I, s. 24, Fla.Const., provides that all records held by a public entity are public records, open to inspection and copying by any person, unless the legislature, by general law, provides that such record is exempt from public disclosure.

HB 1117 proposes keeping confidential the appraisal reports, offers, and counteroffers related to land acquisition by the South Florida Regional Transportation Authority (the authority) until an option contract is executed, or barring that, until 30 days before a purchase or agreement comes before the authority for approval. The bill also allows the authority to disclose, at its discretion, appraisal reports to property owners or to third-parties that are assisting in the land acquisition, who must maintain the confidentiality of the appraisals.

Pursuant to s.119.15, F.S., the confidentiality provisions of HB 1117 are repealed on October 2, 2011, unless reviewed and reenacted by the Legislature prior to that date. HB 1117 does not raise any apparent constitutional or legal issues, nor does it impact state finances.

The bill would take effect on the same date as its tied bill, HB 1115, if adopted in the same legislative session. Because it would create a public records exemption, HB 1117 must be passed by two-thirds of the House members and Senators present and voting.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: HB 1117 delays public access to appraisal reports, offers, and counteroffers related to land purchases by the South Florida Regional Transportation Authority. These documents would become public after an option contract is executed or, no option is executed, then 30 days before the authority votes to acquire the land

B. EFFECT OF PROPOSED CHANGES:

Present Situation

South Florida Regional Transportation Authority

In an attempt to ease the disruptions created for commuters while it was six-laning I-95 in the mid-1980s, FDOT purchased an 81-mile rail corridor from CSXT for \$264 million and began building a commuter train system. Under terms of the sale, CSXT continued to operate its freight trains in the corridor; maintain the tracks, buildings, and signaling; and dispatches all trains using the tracks. In 1989, the Legislature made the temporary commuter rail more permanent, passing the Tri-County Commuter Rail Authority Act as Part 1 of Chapter 343, F.S., and creating a commuter railroad to serve Miami-Dade, Broward and Palm Beach counties.

In 2003, the Legislature passed SB 686, which replaced the "Tri-Rail" authority with the "South Florida Regional Transportation Authority." The new transportation authority is empowered to construct, finance, and manage a variety of mass transit options, not just commuter rail, as an integrated system. It has numerous powers and responsibilities, including the power to acquire, sell, and lease property; to use eminent domain; to enter into purchasing agreements and other contracts; to enforce collection of system rates, fees, and other charges; and to approve revenue bonds issued on its behalf by the State Division of Bond Finance. It has a nine-member board comprised of county commissioners, citizens, and a Florida Department of Transportation district secretary. Currently, it is supported by contributions of local tax revenues from the three member counties, along with federal and state transportation funds to finance its capital projects.

Open Records Law

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature may, however, provide by general law for the exemption of records from the requirements of Article I, s. 24(a), Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose. Public policy regarding access to government records is also addressed in the Florida Statutes.

Chapter 119, F.S., more completely addresses the issues of public records. Section 119.07(1), F.S., also guarantees every person a right to inspect, examine, and copy any state, county, or municipal record. And, s. 119.115, F.S., the "Open Government Sunset Review Act of 1995," sets forth a legislative review process that requires newly created or expanded exemptions to include an automatic repeal of the exemption on October 2nd of the fifth year after enactment or substantial amendment, unless the Legislature reenacts the exemption. It provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;

- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or
- Protecting trade or business secrets.

Effect of Proposed Changes

HB 1117 would keep confidential the appraisal reports, offers, and counteroffers related to the authority's land acquisitions until an option contract is executed, or barring that, until 30 days before a purchase or agreement comes before the authority for approval. The bill also allows the authority to disclose, at its discretion, appraisal reports to private property owners or to third-parties that are assisting in the land acquisition. The third-parties must maintain the confidentiality of the documents. Additionally, the bill states that in the event that the authority terminates negotiations, the appraisals, offers, and counteroffers become immediately available to the public. Also, the authority may at any time disclose such reports.

These provisions are identical to the public-records exemption for water management districts, in s. 373.139, F.S., and are similar to that of other public land-buying agencies.

Pursuant to s.119.15, F.S., the confidentiality provisions of HB 1117 are repealed on October 2, 2011, unless reviewed and reenacted by the Legislature prior to that date.

HB 1117 also expresses the public necessity of the confidentiality provisions. Disclosure of appraisals and other related documents would "adversely affect the goal of the purchase of lands for public good using public funds at competitive prices," according to the bill. Disclosure also would put the authority at an unfair disadvantage during negotiations, the bill adds. The benefit of acquiring land for a public purpose at competitive prices outweigh any harm to the public from not being able to immediately scrutinize the appraisals and other documents, according to the bill.

The bill would take effect on the same date as its tied bill, HB 1115, if passed during the same legislative session. Because it creates a public-records exemption, HB 1117 requires a two-thirds vote of the members present and voting in both chambers, for passage.

C. SECTION DIRECTORY:

Section 1: Creates s. 343.59, F.S., to keep confidential certain documents related to land acquisitions by the South Florida Regional Transportation Authority until either an option contract to buy the property is executed or until 30 days before the authority approves a contract or purchase agreement. Specifies conditions when the authority may disclose the information earlier. Requires third-parties involved in the acquisition to honor the confidentiality of the documents. Allows the authority use third-party appraisals. Specifies this exemption shall expire October 2, 2011, unless reviewed and reenacted by the Legislature.

Section 2: Specifies public necessity of the public records exemption.

Section 3: Provides that this act shall take effect on the same date as its tied bill, HB 1115, if passed during the same legislative session.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See "D.FISCAL COMMENTS" below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The authority believes withholding immediate disclosure of appraisals, offers, and counteroffers from the public will result in lower acquisition costs for land on which future mass transit projects will be built. These savings could be invested in future land acquisitions to further expand or improve the commuter rail and other public-transit facilities within its service area.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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A bill to be entitled

An act relating to public records; creating s. 343.59, F.S.; providing an exemption from public records requirements for certain appraisal reports, offers, and counteroffers relating to land acquisition by the South Florida Regional Transportation Authority; providing that the exemption expires upon execution of a certain contract or at a certain time before a purchase contract or agreement is considered for approval; providing exceptions to the exemption; providing for future legislative review and repeal; providing a finding of public necessity; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 343.59, Florida Statutes, is created to read:

343.59 Confidentiality of appraisal reports, offers, and counteroffers.--

(1) Appraisal reports, offers, and counteroffers relating to land acquisition by the authority are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the authority's governing board. However, the authority may, at its discretion, disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee

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29 simple techniques if the authority determines that disclosure of
30 such reports will bring the proposed acquisition to closure. In
31 the event that negotiations are terminated by the authority, the
32 appraisal reports, offers, and counteroffers shall become
33 available pursuant to s. 119.07(1). Notwithstanding the
34 provisions of this section, the authority may share and disclose
35 appraisal reports, appraisal information, offers, and
36 counteroffers when joint acquisition of property is
37 contemplated. The authority shall maintain the confidentiality
38 of such appraisal reports, appraisal information, offers, and
39 counteroffers in conformance with this section except in those
40 cases in which the authority has exercised discretion to
41 disclose such information. The authority may disclose appraisal
42 information, offers, and counteroffers to a third party who has
43 entered into a contractual agreement with the authority to work
44 with or on the behalf of or to assist the authority in
45 connection with land acquisitions. The third party shall
46 maintain the confidentiality of such information in conformance
47 with this section. In addition, the authority may use as its own
48 appraisals obtained by a third party under contract with the
49 authority to provide such services, provided the appraisals are
50 reviewed and approved by the authority.

51 (2) Subsection (1) is subject to the Open Government
52 Sunset Review Act of 1995 in accordance with s. 119.15 and shall
53 stand repealed on October 2, 2011, unless reviewed and saved
54 from repeal through reenactment by the Legislature.

55 Section 2. The Legislature finds that it is a public
56 necessity that proprietary confidential business information

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57 contained in appraisal reports, offers, and counteroffers be
58 kept confidential when held by a local governmental entity or
59 agency. Disclosure of this proprietary confidential business
60 information in a local governmental entity's or agency's
61 possession would adversely affect the goal of the purchase of
62 lands for the public good using public funds at competitive
63 prices resulting from negotiations between parties. Further,
64 each party is entitled to independently obtain appraisal reports
65 and property value information regarding said property.
66 Disclosure of the appraisal report or property information by
67 the governmental entity or agency could create an unfair
68 disadvantage for the governmental entity or agency during
69 negotiations. Release of appraisal reports, offers, and
70 counteroffers could impair full and fair competition between the
71 negotiating parties. Thus, the public and private harm in
72 disclosing this information significantly outweighs any public
73 benefit derived from disclosure, and the public's ability to
74 scrutinize and monitor agency action is not diminished by
75 nondisclosure of this information.

76 Section 3. This act shall take effect on the same date
77 that HB 1115 or similar legislation takes effect, if such
78 legislation is adopted in the same legislative session or an
79 extension thereof and becomes law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7145 CS PCB DS 06-01 Seaport Security and Access Control/Credentialing
SPONSOR(S): Domestic Security Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Domestic Security Committee	8 Y, 0 N	Newton	Newton
1) Criminal Justice Committee	5 Y, 0 N, w/CS	Cunningham	Kramer
2) Transportation Committee		Pugh (BJP)	Miller P.M.
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 7145 CS establishes security area designations and access requirements for seaports. These designations allow seaport directors to utilize specific restrictive area and non-restrictive area designations in the seaport's security plan and credentialing program.

The bill establishes a five-year recurring review of seaport security plans by the seaport director with the assistance of the Regional Domestic Security Task Force and the United States Coast Guard. Additionally, the bill provides for the use of a risk assessment by seaport directors in creating a security plan and determining the use of counter terrorism devices and initiatives. It amends the waiver process and establishes an alternative means of compliance to the statewide minimum standards for seaport security. The bill also creates a prohibition on concealed weapons inside a seaport's restricted areas.

HB 7145 CS establishes an 11-member Seaport Security Standards Advisory Council under the Office of Drug Control for the purposes of reviewing the statewide seaport security standards for applicability to current narcotics and terrorist threats.

The bill establishes a certification program for Seaport Security Officers and allows seaport authorities and governing boards to require security officers working on a seaport to receive additional training and designation as a certified Seaport Security Officer.

Additionally, the bill provides authority to create a Seaport Law Enforcement Agency at the discretion of the seaport director. A seaport director is not required to create such a force if the seaport's security requirements are being met by other means. This provision allows the seaport director the choice of creating the seaports own internal law enforcement agency. It also establishes a maritime domain awareness training program for security awareness training of all seaport workers.

HB 7145 CS also authorizes certified Seaport Security Officers to detain, based on probable cause, persons believed to be trespassing in designated seaport restricted access areas pending the immediate arrival of a law enforcement officer, and provides to those officers limited protection from liability for false arrest, false imprisonment, and unlawful detention. The bill makes it a felony to willingly and knowingly attempt to or obtain a seaport security identification card using false information.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

- HB 7145 CS authorizes governmental seaport authorities and local governments operating seaports to require that certain private security forces working at the port receive additional training and certification.
- But the bill also gives greater latitude to the seaport directors in the establishment of security plans and the creation and use of seaport security forces.

Safeguard Individual Liberty

- The bill grants the authority to certified Seaport Security Officers to take certain trespass suspects into custody and detain them under specified circumstances. Security guards currently enjoy no such authority to detain trespass suspects.

Maintain Public Security

- The bill provides for more comprehensive seaport security planning through the use of risk analysis, review and inspection. The bill allows seaport directors flexibility in security plan design and security force composition.
- Additionally, the bill authorizes governmental seaports to require private and other security forces to have additional training that is specific to the seaport security environment. Authorizes certain private and other seaport security forces to take trespass suspects into custody proactively and detain them until a law enforcement officer arrives. Currently, security guards are only authorized to react in a limited way when confronted.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Security Area Designations

Currently, a seaport director may designate any or all of his or her seaport as a restricted area. This designation has a direct effect on the seaport access credentialing process. The law requires all persons working on a port and having access to a restricted area to submit to a detailed background check. These security checks are often costly and time consuming. Currently, there are no provisions in the law to allow seaport directors latitude in designating areas as unrestricted. Area designations have long been tools for enforcement of restricted or off limits zones on a seaport. The ambiguity that exists in area designation protocols lends itself to increased cost to ports in worker credentialing and places limitations on seaport directors in security planning.

Seaport Security Standards and Waivers

Seaports subject to this bill are required to review their security plan once every four years and are subject to inspection by the Department of Law Enforcement on a random and annual basis. Security plans developed by the seaports must conform to the standards set forth in the Office of Drug Control, Minimum Security Standards for Florida Seaports.

In general, the Office of Drug Control and the Department of Law Enforcement may modify or waive the standards as contained in the statewide minimum standards for seaport security.

Review of the Statewide Minimum Standards for Seaport Security

There are no provisions for review or modification of the statewide minimum standards for seaport security contained in s. 311.12, F.S.

Seaport Security Officer Training and Certification

Prior to 2000, seaport security in Florida was focused on supply-chain theft prevention to protect the commercial interests of seaport tenants. Since 2001, considerable effort and resources have been devoted to improving physical security and security operations at Florida's commercial seaports to meet the ongoing concerns about drug trafficking and the emerging threat of terrorism. Florida pursued a successful strategy for seaport security improvements through grant funding now administered by the Transportation Security Administration of the Department of Homeland Security. However, these federal grants are restricted to pre-approved physical infrastructure improvements.

Improvements in security operations at Florida's 14 seaports have been primarily funded through the Florida Seaport Transportation Economic Development Council (FSTED) and the commercial seaports individually. In order to accomplish these operational security improvements, the seaports have voluntarily foregone needed economic development infrastructure projects. Concern for long-term funding of operational security costs prompted a review of operational structures at several public seaports by the Senate Domestic Security Committee.

The Florida Senate Interim Project Report 2005-144, Seaport Security, November 2004, describes and documents the above situation and identifies several possible methods to reduce or mitigate operational security costs including the training and certification of seaport security officers.

As a general rule, private security personnel working on Florida's public seaports are required to maintain at a minimum, a CLASS D private security officer license,¹ including at least 40 hours of professional education completed at a school or training facility licensed by the Florida Department of Agriculture and Consumer Services. At least one port employs CLASS G security officers as a part of its private security force. These officers are permitted to carry firearms and must undergo additional training requirements prior to obtaining a state CLASS G license.²

The state's two county-operated ports -- Port Everglades and Port of Miami -- appear to have operational security costs which are substantially higher than other public ports. The extensive use of government law enforcement employees, with the inherent costs of salary and benefits associated with those personnel may be a driving factor in those higher costs. In fact, ports using a blend of sworn law enforcement, non-sworn law enforcement, and private security forces had security operating costs of less than half that of the county operated facilities. One factor making it difficult to determine the cost of security at seaports is the widely differing operational and geographic scope of each port. The two county-operated ports are the largest operationally, and thus have more activity requiring security presence on a daily basis. However, the extreme differences in security costs between Port Everglades and Port of Miami, as compared to Jaxport and Port of Tampa which are operated by independent special districts, point to the method of service delivery being the reason for higher costs.

The use of some form of blended security force, either through additional port security officers holding appropriate state licenses, or through contracted services provided by licensed personnel from private security firms might provide some reduction in costs for ports now using county personnel. For example, Port Everglades, through its contract with the Broward County Sheriff's Office, pays overtime costs to non-sworn personnel (CSAs) to stand guard post assignments in cruise terminals when ships are in port. A private security officer, under the direction of sworn law enforcement, could perform this same duty under an hourly contract, thus saving the port the overhead costs of salary, benefits, administration and supervision. A focused review of the use of sworn and non-sworn law enforcement personnel by each public seaport could result in cost savings through a different proportion of sworn and non-sworn government and private personnel without the loss of appropriate levels of security.

Proper training of private security personnel employed to protect Florida's public seaports is an ongoing concern. Prevention, protection and response procedures on seaports are quite unique and require

¹ s. 493.6303, F.S.

² s. 493.6115, F.S.

specialized education and training. While CLASS D and CLASS G security officers must receive specialized patrol and firearms training, respectively, there is no required additional training, nor any additional specialized seaport security certification or separate class of security officers that have completed such training, recognized by the State of Florida.

Seaport Security Forces

Seaports in Florida utilize a combination of force structures to meet their human capital security needs. A contract between a seaport and local law enforcement agencies is a very popular approach to solving the security needs of seaports. Another is to contract with a private firm for security services. Still other seaports use a variation of employed labor and contracts to fulfill this requirement. Although seaports have the authority to contract for security service they are not authorized by statute to establish and maintain a seaport law enforcement agency under the sole control of the seaport director.

The Power to Detain

Florida law authorizes a law enforcement officer, a merchant, a farmer, or their employee or agent, who has probable cause to believe that a retail theft, farm theft, or trespass, has been committed by a person and, in the case of retail or farm theft, that the property can be recovered by taking the offender into custody to, for the purpose of attempting to effect such recovery or for prosecution, take the offender into custody and detain the offender in a reasonable manner for a reasonable length of time.³ State law further provides that in the event the merchant, merchant's employee, farmer, or a transit agency's employee or agent takes the person into custody, a law enforcement officer shall be called to the scene immediately. The law also is applicable to transit-area evasion with respect to detention. This statute provides that the taking of a person into custody does not, by itself, render the person taking the suspect into custody criminally or civilly liable for false arrest, false imprisonment or unlawful detention.

Additionally, Florida law currently authorizes the chief administrative officer of a school, who has probable cause to believe that a person is trespassing upon school grounds, to take the person into custody and detain him or her in a reasonable manner for a reasonable amount of time pending the arrival of a law enforcement officer. The taking of the person into custody does not, by itself, render the chief administrative officer criminally or civilly liable for false arrest, false imprisonment or unlawful detention.⁴

No similar authorization to detain exists in Florida law in the case of a trespass offender found in a restricted area on a seaport. No private seaport security officer may currently detain such a person pending the arrival of a law enforcement officer.

Security Identification Card

State or federal law does not provide any penalty for the use of false information to obtain a seaport security identification card.

Effect of Proposed Changes

Security Area Designation

HB 7145 CS creates s. 311.111, F.S., detailing unrestricted and restricted access areas on seaports. Area designations are as follows: unrestricted, public access areas; restricted, public access areas; restricted access areas and secured, restricted access areas. By creating these categories of access areas, seaport directors must incorporate these defined areas into the seaport's security plan. When designating areas as unrestricted, seaport directors may not require the full security background checks currently mandated of persons working on seaport property. Persons working solely in unrestricted, public access areas will be required to have identification as required by the seaport director. This allows for the reduction in credentialing costs to the seaports.

³ s. 812.015(3)(a), F.S.

⁴ s. 810.097, F.S.

Seaport Security Standards and Waivers

HB 7145 CS aligns the requirements of the seaport to submit a security plan to the Department Law Enforcement for review with the federal requirement to submit a seaport security plan to the U.S. Coast Guard on a five-year schedule. Seaport directors are required to perform risk assessments and incorporate the findings of the assessment into the seaports security plan. This will provide the seaport with current review of the security risks to the seaport on a continual basis. The Department of Law Enforcement is required to annually inspect the seaports and, within 30 days of that inspection, report its findings to the U.S. Coast Guard and others. The inspection of the seaports by the Department of Law Enforcement shall be based solely on the criteria established in Florida's statewide minimum seaport security standards and the standards as set forth in the federal Maritime Transportation Security Act. Other comments included in the annual inspection report are considered as recommendations and should be incorporated in the seaport's security plans.

Any findings disputed by the seaport related to the statewide minimum seaport security standards contained in the Department of Law Enforcement report will be submitted to the Florida Domestic Oversight Council for review and mediation. The decision of the Council is considered final. This appeals process provides the seaports with a redress procedure not previously granted.

A waiver process was previously in place for the modification of the statewide minimum seaport security standards. This process was underutilized and provides the seaports with no mediation should the Office of Drug Control and the Department of Law Enforcement not grant a waiver to the ports on the standards as written. HB 7145 CS creates a procedure for seaports to request the Domestic Security Oversight Council to review the waiver request should the prior agencies fail to approve the waiver request. The decision of the Council is considered final.

Review of the Statewide Minimum Standards for Seaport Security

HB 7145 CS creates an 11-member Seaport Security Standards Advisory Council under the Office of Drug Control for the purpose of reviewing and recommending modifications to the statewide minimum seaport security standards. The Advisory Council shall meet at least once every five years and report its findings and recommendations to the Governor, the Speaker of the Florida House of Representatives and the President of the Florida Senate. The Advisory Council's members are:

- Two seaport directors appointed by the Governor.
- Two seaport security directors appointed by the Governor.
- One designee from FDLE.
- The director of the Office of Motor Carrier Compliance within the state Department of Transportation.
- One designee from the Florida Attorney General's Office.
- One designee from the state Department of Agriculture and Consumer Services.
- One designee from the Office of Tourism, Trade, and Economic Development.
- A designee from the Office of Drug Control, who shall serve as the chair.
- A representative of the U.S. Coast Guard as an ex officio member.

Seaport Security Officer Training and Certification

The bill creates s. 311.121, F.S., allowing each seaport authority or governing board subject to statewide minimum seaport security standards to require security officers working on the seaport to undergo additional training and become certified as a Seaport Security Officer. The bill establishes eligibility criteria to undergo training or demonstrate equivalency qualifications for certification as a Seaport Security Officer. In addition, it grants authority to evaluate and determine equivalency to the Department of Agriculture and Consumer Services Division of Licensing. The bill also requires certified Seaport Security Officers to undergo at least eight hours of continuing education per Class D licensing cycle in order to maintain certification as a Seaport Security Officer. Failure to meet such requirements results in lapse of the certificate, and reexamination, at a minimum, is required to regain the certification.

The bill provides for a steering committee to establish and periodically review a training curriculum for Seaport Security Officers and for continuing education of those officers. The curriculum must conform to or exceed the requirements of the appropriate model courses for seaport personnel approved by the federal Maritime Administration. Additionally, the bill assigns the Department of Education the responsibility for implementing the steering committee curriculum recommendations and requires instructors conducting Seaport Security Officer training to hold a CLASS D license pursuant to s. 493.6301, F.S. The bill provides that an organization applying for authorization to teach the curriculum may apply to become a licensed school pursuant to s. 493.6304, F.S.

The bill also requires a candidate for certification to pass a proficiency examination and establishes criteria for maintaining valid certification. In addition, the bill provides for the administration of the certification process and notification to the Division of Licensing of the Department of Agriculture and Consumer Services that a certificate has been issued.

Seaport Security Forces

The bill creates s. 311.122, F.S., authorizing the creation of a Seaport Law Enforcement Agency by the seaport director to satisfy the seaport's security force requirements.

The Power to Detain

HB 7145 CS authorizes a seaport security officer holding a CLASS D or CLASS G license and a Seaport Security Officer certificate, who is acting as an agent of the seaport's federally designated Facility Security Officer (FSO), to detain a person believed to be trespassing in a designated seaport restricted access area until a law enforcement officer arrives on scene. Such certified Seaport Security Officer is required to call immediately for the assistance of a law enforcement officer upon detaining a suspect, and he or she may only take the suspect into custody and detain such suspect in a reasonable manner for a reasonable length of time. In addition, the bill provides protection for the Seaport Security Officer from criminal or civil liability for false arrest, false imprisonment, and unlawful detention.

Under current Florida law, the Seaport Security Officer would be entitled to protection from liability only if the period of custodial detention lasts no longer than the period of time for which the officer has probable cause to take into custody and detain. Furthermore, if a judicial determination is made that the Seaport Security Officer detained a suspect in an unreasonable manner or for an unreasonable period of time, protection from liability may be lost.

Security Identification Card

The bill creates s. 817.021, F.S., making the use of false information to attempt to or obtain a seaport security identification card a third-degree felony, punishable by a maximum 5 years in prison and a \$5,000 fine. This provides a penalty not included under previous statutes.

C. SECTION DIRECTORY:

Section 1. Creates s. 311.111, F.S., requiring certain seaports to designate and identify security area designations, access requirements, and security enforcement authorizations on seaport premises.

Section 2. Amends s. 311.12, F.S., revising the purpose of seaport security plans; requiring periodic plan revisions; requiring plans to be inspected by the Office of Drug Control and the Department of Law Enforcement; providing requirements with respect to protection standards in specified restricted areas; requiring delivery of the plan to specified entities; requiring the Department of Law Enforcement to inspect seaports to determine if all security measures are in compliance with the seaport security standards; requiring a report; providing procedures and requirements with respect to waiver of any physical facility requirement; providing a penalty for possession of a concealed weapon on seaport property; requiring periodic review of statewide minimum standards for seaport security; requiring the Office of Drug Control to convene a Seaport Security Standards Advisory Council to review the statewide minimum standards.

Section 3. Creates s. 311.121, F.S., requiring certain seaports to impose specified requirements for certification as a seaport security officer; creating the Seaport Security Officer Qualification, Training, and Standards Coordinating Council under the Department of Law Enforcement; requiring the Department of Education to develop initial and continuing education and training programs for seaport security officer certification; providing requirements and procedures with respect to such training programs; providing requirements for renewal of inactive or revoked certification.

Section 4. Creates s. 311.122, F.S., authorizing each seaport to create a seaport law enforcement agency; providing requirements of such an agency; providing requirements with respect to the composition of agency personnel; providing powers of seaport law enforcement agency officers and seaport security officers.

Section 5. Creates s. 311.123, F.S., providing for the creation of a maritime domain security awareness training program; providing purpose of the program; providing program training curriculum requirements.

Section 6. Creates s. 311.124, F.S., providing authority of seaport security officers to detain persons suspected of trespassing; providing immunity from specified criminal and civil liability.

Section 7. Creates s. 817.021, F.S., providing a criminal penalty for willfully and knowingly providing false information in obtaining or attempting to obtain a seaport security identification card.

Section 8. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "Fiscal Comments."

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "Fiscal Comments."

D. FISCAL COMMENTS:

HB 7145 CS does not incur any additional costs to Florida's seaports. The seaport operators are given additional tools to reduce expenditures by designating unrestricted areas, lowering credentialing costs to tenants, and basing the seaport security inspection process solely on the standards as set forth in the statewide minimum seaport security standards and the Maritime Transportation Security Act. Any

additional cost to seaports may come in the form of non-mandatory security recommendations by the Department of Law Enforcement that should be incorporated by the seaports.

The bill is permissive to seaport authorities and governing boards with regard to requiring certified Seaport Security Officers. However, there may be potential cost savings to governmental seaports given the ability to design an optimum security force mix of sworn and non-sworn law enforcement officers and certified Seaport Security Officers.

For governmental seaports electing to require Seaport Security Officer Certification, there will be an undetermined cost associated with providing additional training for certification. This cost will likely be borne by the individual applicant seeking upgraded skills and certification. The impact to private sector security agency employers seeking higher skill level security officers is also currently unknown.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because HB 7145 CS does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional grant of rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

An amendment adopted March 8, 2006, by the Domestic Security Committee to the original PCB DS 06-01 promotes the "safety and security of residents and visitors of the state and promotes the flow of legitimate trade and travel" in regard to a seaport's security plan.

On March 28, 2006, the Criminal Justice Committee adopted a strike-all amendment that made technical changes to the bill and reported the bill favorably with committee substitute.

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CHAMBER ACTION

The Criminal Justice Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to seaport security; creating s. 311.111, F.S.; requiring each seaport authority or governing board of a seaport that is subject to the statewide minimum seaport security standards to designate and identify security area designations, access requirements, and security enforcement authorizations on seaport premises and in seaport security plans; providing that any part of a port's property may be designated as a restricted access area under certain conditions; amending s. 311.12, F.S.; revising purpose of security plans maintained by seaports; requiring periodic plan revisions; requiring plans to be inspected by the Office of Drug Control and the Department of Law Enforcement based upon specified standards; providing requirements with respect to protection standards in specified restricted areas; requiring delivery of the plan to specified entities; requiring the Department of Law Enforcement to inspect every seaport within the state to determine if all security measures

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adopted by the seaport are in compliance with seaport security standards; requiring a report; authorizing seaports to appeal findings in a Department of Law Enforcement inspection report; requiring the Domestic Security Oversight Council to establish a review process; providing procedures and requirements with respect to waiver of any physical facility requirement or other requirement contained in the statewide minimum standards for seaport security; providing a penalty for possession of a concealed weapon while on seaport property in a designated restricted area; requiring periodic review of the statewide minimum standards for seaport security to be conducted under the Office of Drug Control within the Executive Office of the Governor; requiring the Office of Drug Control to convene a Seaport Security Standards Advisory Council to review the statewide minimum standards for seaport security with respect to current narcotics and terrorism threats to Florida's seaports; providing membership, terms, organization, and meetings of the council; creating s. 311.121, F.S.; providing legislative intent with respect to the employment by seaports of certified law enforcement officers and certified private security officers; providing authority of seaports and requirements of the Department of Law Enforcement with respect to such intent; requiring the authority or governing board of each seaport that is subject to statewide minimum seaport security standards to impose specified requirements for certification as a seaport

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52 security officer; creating the Seaport Security Officer
53 Qualification, Training, and Standards Coordinating
54 Council under the Department of Law Enforcement; providing
55 membership and organization of the council; providing
56 terms of members; providing duties and authority of the
57 council; requiring the Department of Education to develop
58 curriculum recommendations and specifications of the
59 council into initial and continuing education and training
60 programs for seaport security officer certification;
61 providing requirements and procedures with respect to such
62 training programs; providing requirements and procedures
63 with respect to certification as a seaport security
64 officer; providing requirements for renewal of inactive or
65 revoked certification; creating s. 311.122, F.S.;
66 authorizing each seaport in the state to create a seaport
67 law enforcement agency for its facility; providing
68 requirements of an agency; requiring certification of an
69 agency; providing requirements with respect to the
70 composition of agency personnel; providing powers of
71 seaport law enforcement agency officers and seaport
72 security officers; creating s. 311.123, F.S.; providing
73 for the creation of a maritime domain security awareness
74 training program; providing purpose of the program;
75 providing program training curriculum requirements;
76 creating s. 311.124, F.S.; providing authority of seaport
77 security officers to detain persons suspected of
78 trespassing in a designated restricted area of a seaport;
79 providing immunity from specified criminal or civil

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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liability; creating s. 817.021, F.S.; providing a criminal penalty for willfully and knowingly providing false information in obtaining or attempting to obtain a seaport security identification card; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 311.111, Florida Statutes is created to read:

311.111 Security area designations; access requirements; authority.--Each seaport authority or governing board of a seaport identified in s. 311.09 that is subject to the statewide minimum seaport security standards in s. 311.12 shall clearly designate in seaport security plans and clearly identify with appropriate signs and markers on the premises of a seaport the following security area designations, access requirements, and corresponding security enforcement authorizations, which may include, but not be limited to, clear notice of the prohibition on possession of concealed weapons and other contraband material on the premises of the seaport:

(1) UNRESTRICTED PUBLIC ACCESS AREA.--An unrestricted public access area of a seaport is open to the general public without a seaport identification card other than that required as a condition of employment by a seaport director.

(2) RESTRICTED PUBLIC ACCESS AREA.--A restricted public access area of a seaport is open to the public for a specific purpose via restricted access and open to individuals working on the seaport, seaport employees, or guests who have business with

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108 the seaport. Any person found in these areas without the proper
109 level of identification card is subject to the trespass
110 provisions of ss. 810.08 and 810.09 and this chapter. All
111 persons and objects in these areas are subject to search by an
112 on-duty sworn state-certified law enforcement officer, a Class D
113 seaport security officer certified under Maritime Transportation
114 Security Act guidelines and s. 311.121, or an employee of the
115 seaport security force certified under the Maritime
116 Transportation Security Act guidelines and s. 311.121.

117 (3) RESTRICTED ACCESS AREA.--A restricted access area of a
118 seaport is open only to individuals working on the seaport,
119 seaport employees, or guests who have business with the seaport.
120 Any person found in these areas without the proper level of
121 identification card is subject to the trespass provisions of ss.
122 810.08 and 810.09 and this chapter. All persons and objects in
123 these areas are subject to search by an on-duty sworn state-
124 certified law enforcement officer, a Class D seaport security
125 officer certified under Maritime Transportation Security Act
126 guidelines and s. 311.121, or an employee of the seaport
127 security force certified under the Maritime Transportation
128 Security Act guidelines and s. 311.121.

129 (4) SECURED RESTRICTED ACCESS AREA.--A secured restricted
130 access area of a seaport is open only to individuals working on
131 the seaport, seaport employees, or guests who have business with
132 the seaport and is secured at each point of access at all times
133 by a Class D seaport security officer certified under the
134 Maritime Transportation Security Act, a sworn state-certified
135 law enforcement officer, or an employee of the port's security

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136 force certified under the Maritime Transportation Security Act.
137 Any person found in these areas without the proper level of
138 identification card is subject to the trespass provisions of ss.
139 810.08 and 810.09 and this chapter. All persons and objects in
140 these areas are subject to search by an on-duty Class D seaport
141 security officer certified under Maritime Transportation
142 Security Act guidelines and s. 311.121, an on-duty sworn state-
143 certified law enforcement officer, or an employee of the seaport
144 security force certified under the Maritime Transportation
145 Security Act guidelines and s. 311.121.

146
147 During a period of high terrorist threat level designated by the
148 United States Department of Homeland Security or the Florida
149 Department of Law Enforcement or during an emergency declared by
150 the seaport security director of a port due to events applicable
151 to that particular port, the management or controlling authority
152 of the port may temporarily designate any part of the port
153 property as a restricted access area or a secured restricted
154 access area. The duration of such designation is limited to the
155 period in which the high terrorist threat level is in effect or
156 port emergency exists. Subsections (3) and (4) do not limit the
157 power of the managing or controlling authority of a seaport to
158 designate any port property as a restricted access area or a
159 secured restricted access area as otherwise provided by law.

160 Section 2. Subsection (2) and paragraph (b) of subsection
161 (4) of section 311.12, Florida Statutes, are amended, and
162 subsections (7) and (8) are added to that section, to read:

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311.12 Seaport security standards; inspections;
compliance; appeals.--

(2)(a) Each seaport identified in s. 311.09 shall maintain
a security plan to provide for a secure seaport infrastructure
specific to that seaport that shall promote the safety and
security of the residents and visitors of the state and promote
the flow of legitimate trade and travel. Commencing January 1,
2007, and every 5 years thereafter, the seaport director of each
seaport, with the assistance of the Regional Domestic Security
Task Force and in conjunction with the United States Coast
Guard, shall revise the seaport security plan based on the
results of continual, quarterly assessments by the seaport
director of security risks and possible risks related to
terrorist activities and relating to the specific and
identifiable needs of the seaport which assures that the seaport
is in substantial compliance with the statewide minimum
standards established pursuant to subsection (1).

(b) Each plan adopted or revised pursuant to this
subsection shall be inspected ~~must be reviewed and approved~~ by
the Office of Drug Control and the Department of Law Enforcement
based solely upon the standards as set forth under the Maritime
Transportation Security Act as revised July 2003, 33 C.F.R. s.
105.305, and the statewide minimum standards established
pursuant to subsection (1). All such seaports shall allow
unimpeded access by the Department of Law Enforcement to the
affected facilities for purposes of plan or compliance
inspections or other operations authorized by this section.

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190 (c) Each seaport security plan shall ~~may~~ establish
 191 unrestricted and restricted access areas within the seaport
 192 consistent with the requirements of the statewide minimum
 193 standards and the provisions of s. 311.111. In such cases, a
 194 Uniform Port Access Credential Card, authorizing restricted-area
 195 access, shall be required for any individual working within or
 196 authorized to regularly enter a restricted access area and the
 197 requirements in subsection (3) relating to criminal history
 198 checks and employment restrictions shall be applicable only to
 199 employees or other persons working within or authorized to
 200 regularly enter a restricted access area. Every seaport security
 201 plan shall set forth the conditions and restrictions to be
 202 imposed upon others visiting the port or any restricted access
 203 area sufficient to provide substantial compliance with the
 204 statewide minimum standards. As determined by the seaport
 205 director's most current quarterly risk assessment report, any
 206 restricted access area with a potential human occupancy of 50
 207 persons or more, any cruise terminal, or any business operation
 208 that is adjacent to an unrestricted public access area shall be
 209 protected from the most probable and creditable terrorist threat
 210 to human life by the use of like or similar standards as those
 211 set forth in the United States Department of Defense Minimum
 212 Antiterrorism Standard for Buildings, Unified Facilities
 213 Criteria 4-010-0.

214 (d) Within 30 days after the completion of the seaport's
 215 security plan inspection by the Department of Law Enforcement,
 216 it shall be delivered to the United States Coast Guard, the

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217 Regional Domestic Security Task Force, and the Domestic Security
218 Oversight Council.

219 (e) It is the intent of the Legislature that Florida's
220 seaports adhere to security practices that are consistent with
221 risks assigned to each seaport through the risk assessment
222 process established in this section. Therefore, the Department
223 of Law Enforcement shall inspect every seaport within the state
224 to determine if all security measures adopted by the seaport are
225 in compliance with the standards set forth in this chapter and
226 shall submit the department's findings within 30 days after the
227 inspection in a report to the Domestic Security Oversight
228 Council and the United States Coast Guard for review, with
229 requests to the Coast Guard for any necessary punitive action.

230 (f) Notwithstanding the provisions of chapter 120, a
231 seaport may appeal to the Domestic Security Oversight Council
232 for review and mediation the findings in any Department of Law
233 Enforcement inspection report as they relate to the requirements
234 of this section. The Domestic Security Oversight Council shall
235 establish a review process and may review only those findings
236 under this section that are in specific dispute by the seaport.
237 In reviewing the disputed findings, the council may concur in
238 the findings of the department or the seaport or may recommend
239 corrective action to the seaport. Findings of the council shall
240 be considered final.

241 (4)

242 (b) The Office of Drug Control and the executive director
243 of the Department of Law Enforcement may modify or waive any
244 physical facility requirement or other requirement contained in

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the statewide minimum standards for seaport security upon a finding or other determination that the purposes of the standards have been reasonably met or exceeded by the seaport requesting the modification or waiver. Alternate means of compliance may not in any way diminish the safety or security of the seaport and shall be verified through an extensive risk analysis conducted by the port director. Waivers shall be submitted in writing with supporting documentation to the Office of Drug Control and the Department of Law Enforcement. The Office of Drug Control and the Department of Law Enforcement shall have 90 days to jointly grant the waiver or reject the waiver in whole or in part. Waivers not granted within 90 days or jointly rejected shall be submitted by the seaport to the Domestic Security Oversight Council for consideration. The Domestic Security Oversight Council shall grant the waiver or reject the waiver in whole or in part. The decision of the Domestic Security Oversight Council shall be considered final. Waivers submitted for standards established under s. 311.122(3) may not be granted for percentages below 10 percent. Such modifications or waivers shall be noted in the annual report submitted by the Department of Law Enforcement pursuant to this subsection.

(7) Any person who has in his or her possession a concealed weapon, or who operates or has possession or control of a vehicle in or upon which a concealed weapon is placed or stored, while in a designated restricted area on seaport property commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This subsection does

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not apply to active-duty certified federal or state law enforcement personnel.

(8)(a) Commencing on January 15, 2007, and at least every 5 years thereafter, a review of the statewide minimum standards for seaport security as contained in paragraph (1)(a) shall be conducted under the Office of Drug Control within the Executive Office of the Governor by the Seaport Security Standards Advisory Council as provided in paragraph (b).

(b) The Office of Drug Control shall convene a Seaport Security Standards Advisory Council as defined in s. 20.03(7) to review the statewide minimum standards for seaport security for applicability to and effectiveness in combating current narcotics and terrorism threats to Florida's seaports. All sources of information allowed by law shall be utilized in assessing the applicability and effectiveness of the standards.

(c) The members of the council shall consist of the following:

1. Two seaport directors appointed by the Governor.
2. Two seaport security directors appointed by the Governor.
3. One designee from the Department of Law Enforcement.
4. The director of the Office of Motor Carrier Compliance of the Department of Transportation.
5. One designee from the Attorney General's Office.
6. One designee from the Department of Agriculture and Consumer Services.
7. One designee from the Office of Tourism, Trade, and Economic Development.

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8. A representative of the United States Coast Guard who shall serve as an ex officio member of the council.

(d) Members of the council shall serve for terms of 4 years. A vacancy shall be filled by the original appointing authority for the balance of the unexpired term.

(e) Seaport Security Standards Advisory Council members shall serve without pay; however, state per diem and travel allowances may be claimed for attendance of officially called meetings as provided by s. 112.061.

(f) The Seaport Security Standards Advisory Council shall be chaired by a designee from the Office of Drug Control. The council shall meet upon the call of the chair and at least once every 5 years.

(g) Recommendations and findings of the council shall be transmitted to the Governor, the Speaker of the House of Representatives, and the President of the Senate.

Section 3. Section 311.121, Florida Statutes, is created to read:

311.121 Qualifications, training, and certification of licensed security officers at Florida seaports.--

(1) It is the intent of the Legislature that seaports in the state be able to mitigate operational security costs without reducing security levels by employing a combination of certified law enforcement officers and certified private security service officers. In order to accomplish this intent, seaports shall have the option to recruit and employ seaport security officers who are trained and certified pursuant to the provisions of this section. The Department of Law Enforcement shall adhere to this

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intent in the approval and certification process for seaport security required under s. 311.12.

(2) The authority or governing board of each seaport identified under s. 311.09 that is subject to the statewide minimum seaport security standards established in s. 311.12 shall require that a candidate for certification as a seaport security officer:

(a) Has received a Class D license as a security officer under chapter 493.

(b) Has successfully completed the certified training curriculum for a Class D license or has been determined by the Department of Agriculture and Consumer Services to have equivalent experience as established by rule of the department.

(c) Has completed the training or training equivalency and testing process established by this section for becoming a certified seaport security officer.

(3)(a) The Seaport Security Officer Qualification, Training, and Standards Coordinating Council is created under the Department of Law Enforcement.

(b) The executive director of the Department of Law Enforcement shall appoint 12 members to the council which shall include:

1. The seaport administrator of the Department of Law Enforcement.

2. The chancellor of the Community College System.

3. The director of the Division of Licensing of the Department of Agriculture and Consumer Services.

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4. The administrator of the Florida Seaport Transportation and Economic Development Council.

5. Two seaport security directors from seaports designated under s. 311.09.

6. One director of a state law enforcement academy.

7. One representative of a local law enforcement agency.

8. Two representatives of contract security services.

9. One representative of the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles.

10. One representative of the United States Coast Guard who shall serve as an ex officio member of the council.

(c) Council members designated in subparagraphs (b)1.-4. shall serve for the duration of their employment or appointment. Council members designated under subparagraphs (b)5.-10. shall serve 4-year terms, except that the initial appointment for the representative of a local law enforcement agency, one representative of a contract security agency, and one seaport security director from a seaport designated in s. 311.09 shall serve for terms of 2 years.

(d) The chancellor of the Community College System shall serve as chair of the council.

(e) The council shall meet upon the call of the chair, and at least once a year to update or modify curriculum recommendations.

(f) Council members shall serve without pay; however, state per diem and travel allowances may be claimed for attendance of officially called meetings as provided by s. 112.061.

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384 (g) By December 1, 2006, the council shall identify the
385 qualifications, training, and standards for seaport security
386 officer certification and recommend a curriculum for the seaport
387 security officer training program that shall include no less
388 than 218 hours of initial certification training and that
389 conforms to or exceeds model courses approved by the Federal
390 Maritime Act under Section 109 of the Federal Maritime
391 Transportation Security Act of 2002 for facility personnel with
392 specific security duties.

393 (h) The council may recommend training equivalencies that
394 may be substituted for portions of the required training.

395 (i) The council shall recommend a continuing education
396 curriculum of no less than 8 hours of additional training for
397 each annual licensing period.

398 (4) (a) The Department of Education shall develop the
399 curriculum recommendations and classroom-hour specifications of
400 the Seaport Security Officer Qualifications, Training, and
401 Standards Coordinating Council into initial and continuing
402 education and training programs for seaport security officer
403 certification.

404 (b) Such training programs shall be used by schools
405 licensed under s. 493.6304, and each instructor providing
406 training must hold a Class D license pursuant to s. 493.6301.

407 (c) A seaport authority or other organization involved in
408 seaport-related activities may apply to become a school licensed
409 under s. 493.6304.

410 (d) The training programs shall include proficiency
411 examinations that must be passed by each candidate for

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412 certification who successfully completes the required hours of
413 training or provides proof of authorized training equivalencies.

414 (e) A candidate for certification must be provided with a
415 list of authorized training equivalencies in advance of
416 training; however, each candidate for certification must
417 successfully complete 20 hours of study specific to Florida
418 Maritime Security and pass the related portion of the
419 proficiency examination.

420 (5) Seaport security officer certificates shall be
421 provided by the Department of Agriculture and Consumer Services
422 for issuance by a school licensed under s. 493.6304 and such
423 school may issue the certificate to an applicant who has
424 successfully completed the training program. A school shall
425 notify the Division of Licensing within the department upon the
426 issuance of each certificate. The notification must include the
427 name and Class D license number of the certificateholder and a
428 copy of the certificate. The department shall place the
429 notification with the licensee's file. Notification may be
430 provided by electronic or paper format pursuant to instruction
431 of the Department of Agriculture and Consumer Services.

432 (6)(a) Upon completion of the certification process, a
433 person holding a Class D license must apply for a revised
434 license pursuant to s. 493.6107(2), which license shall state
435 that the licensee is certified as a seaport security officer.

436 (b) A person who has been issued a seaport security
437 officer certificate is authorized to perform duties specifically
438 required of a seaport security officer.

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(c) The certificate is valid for the duration of the seaport security officer's Class D license and shall be renewed upon renewal of the license.

(d) The certificate shall become void if the seaport security officer's Class D license is revoked or allowed to lapse for more than 1 year or if the licensee fails to complete the annual continuing education requirement prior to expiration of the Class D license.

(e) Renewal of certification following licensure revocation or a lapse of longer than 1 year requires, at a minimum, 20 hours of recertification training and reexamination of the applicant.

Section 4. Section 311.122, Florida Statutes, is created to read:

311.122 Seaport law enforcement agency; authorization; requirements; powers; training.--

(1) Each seaport in the state is authorized to create a seaport law enforcement agency for its facility, which authority in no way precludes the seaport from contracting with local governments or law enforcement agencies to comply with the security standards required by this chapter.

(2) Each seaport law enforcement agency shall meet all of the standards set by the state under certified law enforcement guidelines and requirements and shall be certified as provided under chapter 943.

(3) If a seaport creates a seaport law enforcement agency for its facility, a minimum of 30 percent of the aggregate personnel of each seaport law enforcement agency shall be sworn

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467 state-certified law enforcement officers with additional
468 Maritime Transportation Security Act seaport training; a minimum
469 of 30 percent of on-duty personnel of each seaport law
470 enforcement agency shall be sworn state-certified law
471 enforcement officers with additional Maritime Transportation
472 Security Act seaport training; and at least one on-duty
473 supervisor must be a sworn state-certified law enforcement
474 officer with additional Maritime Transportation Security Act
475 seaport training.

476 (4) For the purposes of this chapter, where applicable,
477 seaport law enforcement agency officers shall have the same
478 powers as university police officers as provided in s. 1012.97;
479 however, such powers do not extend beyond the property of the
480 seaport except in connection with an investigation initiated on
481 seaport property or in connection with an immediate, imminent
482 threat to the seaport.

483 (5) For the purposes of this chapter, sworn state-
484 certified seaport security officers shall have the same law
485 enforcement powers with respect to the enforcement of traffic
486 laws on seaport property as university police officers under s.
487 1012.97, community college police officers under s. 1012.88, and
488 airport police officers under the provisions of s.
489 316.640(1)(a)1.d.(I)-(II).

490 (6) Certified seaport security officers shall have the
491 authority to immediately tow any vehicle parked illegally as
492 indicated by an existing sign or during an emergency as deemed
493 necessary to maintain seaport security.

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Section 5. Section 311.123, Florida Statutes, is created to read:

311.123 Maritime domain security awareness training program.--

(1) The Florida Seaport Transportation and Economic Development Council, in conjunction with the Department of Law Enforcement and the Office of Drug Control within the Executive Office of the Governor, shall create a maritime domain security awareness training program to instruct all personnel employed within a seaport's boundaries about the security procedures required of them for implementation of the seaport security plan.

(2) The training program curriculum must include security training required pursuant to 33 C.F.R. part 105 and must be designed to enable the seaports in this state to meet the training, drill, and exercise requirements of 33 C.F.R. part 105 and individual seaport security plans and to comply with the requirements of s. 311.12 relating to security awareness.

Section 6. Section 311.124, Florida Statutes, is created to read:

311.124 Trespassing; detention by a certified seaport security officer.--

(1) Any Class D or Class G seaport security officer certified under the Maritime Transportation Security Act guidelines and s. 311.121 or any employee of the seaport security force certified under the Maritime Transportation Security Act guidelines and s. 311.121 who has probable cause to believe that a person is trespassing pursuant to the provisions

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522 of s. 810.08 or s. 810.09 or this chapter in a designated
523 restricted area pursuant to s. 311.111 is authorized to detain
524 such person in a reasonable manner for a reasonable period of
525 time pending the arrival of a law enforcement officer, and such
526 action shall not render the security officer criminally or
527 civilly liable for false arrest, false imprisonment, or unlawful
528 detention.

529 (2) Upon detaining a person for trespass, the seaport
530 security officer shall immediately call a certified law
531 enforcement officer to the scene.

532 Section 7. Section 817.021, Florida Statutes, is created
533 to read:

534 817.021 False information to obtain a seaport security
535 identification card.--A person who willfully and knowingly
536 provides false information in obtaining or attempting to obtain
537 a seaport security identification card commits a felony of the
538 third degree, punishable as provided in s. 775.082 or s.
539 775.083.

540 Section 8. This act shall take effect July 1, 2006.